



UNITED STATES PATENT AND TRADEMARK OFFICE

SM

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/085,135	03/01/2002	Kunihiko Hori	020235	2700
23850	7590	10/01/2004	EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006				THANH, QUANG D
ART UNIT		PAPER NUMBER		
		3764		

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	10/085,135	HORI ET AL.
	Examiner Quang D. Thanh	Art Unit 3764

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: ____.

3. Applicant's reply has overcome the following rejection(s): ____.
4. Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the ~~proposed amendment(s)~~ a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 9-13.

Claim(s) objected to: ____.

Claim(s) rejected: 1-8.

Claim(s) withdrawn from consideration: ____.

8. The drawing correction filed on ____ is a) approved or b) disapproved by the Examiner.
9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). filed on 5/28/2004.
10. Other: ____.


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments filed on 9/8/2004 have been fully considered but they are not persuasive. In response to applicant's arguments that "Inbe does not disclose a time rate of change, meaning an amount of change in a physiological quantity divided by a time interval", the examiner respectfully disagrees. Inbe teaches that the stimulus amount is determined according to the detected biological parameter and provided to the user on a real-time basis (col. 1, lines 64-66). This inherently teaches that change of biological parameter such as heart rate would be monitored on a real-time basis and thus would comprehend the claimed language "a time rate of change". Moreover, Inbe teaches that the " HR" is closely monitored against time to ensure that when HR does not substantially change for a certain time period such as 55 seconds, then the massage speed is reduced accordingly (col. 4, lines 41-45). Applicant submitted that "the cited Inbe's passage at col. 6, line: 7-24, discloses measuring the time taken for the heart to complete twenty beats, which Inbe refers to as a 'heartbeat attainment time' (col. 6, line 13). This is a heart rate and is a physiological quantity, as mentioned above", and therefore it is clear that Inbe indeed provides "a time rate of change, meaning an amount of change in a physiological quantity divided by a time interval" of heart rate over a time interval as clearly shown in figure 10.

Quang D. Thanh
Patent Examiner
Art Unit 3764

(QT)